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11 Japan Corporate News Network K.K.,  
12 a California Partnership  
13 dba Asia Corporate News Network

14 Japan Corporate News Network K.K., a  
15 California Partnership, dba Asia  
16 Corporate News Network,

17 Plaintiffs,

18 vs.

19 ACNNEWSWIRE.COM, an Internet  
20 domain name;  
21 ACNNEWSWIRE.ORG, an Internet  
22 domain name;  
23 ACNNEWSWIRE.NET, an Internet  
24 domain name;  
25 ACN-NEWSWIRE.COM, an Internet  
26 domain name; and  
27 ACN-NEWSWIRE.NET, an Internet  
28 domain name.

Defendants.

ORIGINAL  
FILED

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RICHARD W. WIEKING  
U.S. CLERK  
NO. DISTRICT COURT  
S.J.

C07 05061  
Case No. SI

COMPLAINT FOR  
CYBERSQUATTING IN REM

(PURSUANT TO 15 USC  
§1125(d)(2)(A))

JURY TRIAL DEMANDED

BY FAX

COMPLAINT

1 Plaintiff Japan Corporate News Network K.K. dba Asia Corporate News Network  
2 ("JCN" or "Plaintiff") alleges as follows:

3

#### 4 INTRODUCTION

5 1. JCN is the owner of the trademarks: JCN Newswire (the "JCN Mark") and  
6 ACN Newswire (the "ACN Mark"). JCN brings this action to recover domain names  
7 stolen by its former employee, Timothy Mckinnon ("Mckinnon").

8 2. JCN was the registrant of the domain names, ACNNEWSWIRE.COM,  
9 ACNNEWSWIRE.NET, ACNNEWSWIRE.ORG (hereinafter, the "ACN Domains") from  
10 May, 2005 until July, 2007, when Mckinnon gained unauthorized access to Plaintiff's e-  
11 mail address and transferred the ACN Domains, without Plaintiff's authorization or  
12 consent, from the domain name registrar Network Solutions.com, L.L.C. ("Network  
13 Solutions") to a second domain name registrar, GoDaddy.com, Inc. ("GoDaddy").

14 3. Mckinnon also unlawfully registered additional domain names containing  
15 the ACN Mark, specifically, ACN-NEWSWIRE.COM, and ACN-NEWSWIRE.NET (the  
16 "Additional ACN Domains"), again without Plaintiff's authorization or consent. Despite  
17 JCN's demands, Mckinnon has refused to transfer the ACN Domains and the Additional  
18 ACN Domains (collectively, the "Disputed Domains") to JCN.

19 4. Upon information and belief, Mckinnon has registered, transferred, and  
20 trafficked in the Disputed Domains with the bad-faith intent of profiting from the goodwill  
21 established by JCN in the JCN Mark and the ACN Mark. Both the JCN Mark and ACN  
22 Mark have acquired secondary meaning, substantial goodwill, and common-law  
23 trademark rights. To unlawfully capitalize on this goodwill, Mckinnon has attempted to  
24 represent himself as ACN Newswire to third parties, including but not limited to third  
25 parties with whom JCN has an existing contractual relationship.

## JURISDICTION AND VENUE

2       5. This Court has *in rem* subject matter jurisdiction over the Disputed Domains  
3 pursuant to 28 U.S.C. §1338(a) and 15 U.S.C. §1125(d)(2), as the domain names  
4 constitute personal property located within the territorial jurisdiction of the United States  
5 and this District.

6       6. Pursuant to 15 U.S.C. §1125(d)(2)(A)(ii)(II), Plaintiff has, through due  
7 diligence, been unable to locate the current registrant of the Disputed Domains. Plaintiff  
8 has sent a notice of the alleged violation and intent to proceed under the above statute to  
9 the current registrant at the postal and e-mail addresses provided by the registrant to the  
10 registrar. Accordingly, Plaintiff is entitled by statute to bring this *in rem* action.

11       7.     Additionally, upon information and belief, Plaintiff is currently unable to  
12 obtain *in personam* jurisdiction over the current registrant of the Disputed Domains, who,  
13 upon information and belief, resides in Australia. Accordingly, Plaintiff is entitled by  
14 statute to bring this *in rem* action pursuant to 15 U.S.C. §1125(d)(2)(A)(ii)(I).

15 8. Venue is proper in this judicial district pursuant to 15 U.S.C. §1125(d)(2)(A)  
16 because Verisign, Inc., the registry of ACNNEWSWIRE.COM, ACNNEWSWIRE.NET,  
17 ACN-NEWSWIRE.COM, and ACN-NEWSWIRE.NET, is located in this District.

**INTRADISTRICT ASSIGNMENT**

20 9. For the purposes of Local Rule 3-2(c), this action arises in San Jose, where  
21 a substantial part of the events or omissions which give rise to the claims alleged herein  
22 occurred and in which a substantial part of the property that is the subject of this action is  
23 located.

## PARTIES

26 10. JCN is a California Partnership which has acquired common law ownership  
27 over the JCN Mark and the ACN Mark. JCN also has pending federal service mark  
28 registrations for the JCN Mark and the ACN Mark with the United States Patent and

1 Trademark Office. JCN resides at 900 Euclid Street # 405, Santa Monica California  
2 90403.

3 11. JCN has entered into an exclusive license with its affiliated Japanese entity,  
4 Japan Corporate News Network K.K. ("JCN Japan") whereby JCN exclusively licenses  
5 the JCN Mark and the ACN Mark to JCN Japan, and by express authorization to JCN  
6 Japan's wholly owned subsidiary, Asia Corporate News Network (Japan).

7 12. JCN Japan provides a variety of services which enable companies to reach  
8 existing and future stakeholders - analysts, investors, customers, business partners,  
9 suppliers and media - in English and Japanese. One such service is "JCN Newswire".  
10 JCN Newswire provides corporate press releases to online financial and media  
11 destinations, via news networks, databases, Internet portals and specialist websites.

12 13. The WHOIS records of the domain name registrar for the ACN Domains  
13 show that the current registrant is Asia Corporate News Network Pty Ltd, located at P.O.  
14 Box Q1299, Sydney, New South Wales 1230. The administrative contact is listed as Tim  
15 Mckinnon, Asia Corporate News Network Pty Ltd, P.O. Box Q1299, Sydney, New South  
16 Wales 1230, with a listed phone number of +61-2-9999-5810, and an e-mail address of  
17 tim.mckinnon@acnnewswire.net<sup>1</sup>.

18 14. The WHOIS records of the domain name registrar for the Additional ACN  
19 Domains show that the current registrant is E-comm Pty Ltd, also located at P.O. Box  
20 Q1299, Sydney, New South Wales 1230. The administrative contact is also listed as Tim  
21 Mckinnon, Asia Corporate News Network Pty Ltd, P.O. Box Q1299, Sydney, New South  
22 Wales 1230, this time with a listed phone number of (041)397-2975, and an e-mail  
23 address of mckint@ecomm.net.au.

24  
25 ///

26  
27 <sup>1</sup> Additionally, one of the ACN Domains lists the e-mail address to be  
28 webmechanic@telstra.com.

1 DOMAIN NAME REGISTRAR AND REGISTRY  
2

3 15. The domain name registrar for the Disputed Domains is GoDaddy, located  
4 in Scottsdale, Arizona.

5 16. The domain name registry for the Disputed Domains is Verisign, Inc., a  
6 Delaware corporation having its principal place of business in the Northern District of  
7 California at 487 East Middlefield Road, Mountain View, California 94043.

8 BRIEF FACTUAL BACKGROUND  
9

10 17. In or around December, 2003, JCN registered the fictitious business name,  
11 Asia Corporate News Network, in Los Angeles County.

12 18. In or around January, 2004, Mckinnon began working for JCN in Japan as a  
13 database contractor to configure the company's news feeds. At his request, Mckinnon  
14 began working in both Japan and Australia on behalf of JCN.

15 19. In or around May, 2005, JCN, via one of the JCN partners, Bruce Porter,  
16 registered the ACN Domains with Network Solutions.

17 20. In or around 2006, JCN asked Mckinnon to create websites for the ACN  
18 Domains registered by JCN. To date, JCN has paid Mckinnon over \$70,000 for his  
19 services with JCN, including but not limited to creating the websites for the ACN  
20 Domains.

21 21. JCN recently learned that on or about September 29, 2006, Mckinnon  
22 unlawfully accessed the JCN email address associated with the ACN Domains, and  
23 changed the email on file to Mckinnon's then-existing email address  
24 ([tim.mckinnon@japancorp.net](mailto:tim.mckinnon@japancorp.net)), without JCN's consent or authorization. JCN has further  
25 learned that on or about July 10, 2007, Mckinnon reset the emails on file to a different  
26 email address ([tim.mckinnon@acnnewswire.net](mailto:tim.mckinnon@acnnewswire.net)), again without JCN's consent or  
authorization.

27 22. The following day, on or about July 11, 2007, Mckinnon changed the name  
28 on the account holding the ACN Domains from "Bruce Porter" to "Tim Mckinnon". On

1 that date Mckinnon also initiated a transfer of the ACN Domains to GoDaddy, where they  
2 are presently registered under Mckinnon's name, again, all without JCN's consent or  
3 authorization.

4       23. The WHOIS ownership record for the Additional Domain Names reveals  
5 that around the same time, on or about July 9, 2007, Mckinnon registered the Additional  
6 Domain Names with GoDaddy. Mckinnon did so without JCN's consent or authorization.

7       24. Upon information and belief, Mckinnon stole the ACN Domains and  
8 registered the Additional ACN Domains for the purpose of unlawfully exploiting the  
9 goodwill of Plaintiff's JCN and ACN Marks.

10       25. On September 12, 2007, Plaintiff sent a demand letter via Registered First  
11 Class International Mail with return receipt requested to the mailing address listed in the  
12 WHOIS ownership record, and via e-mail to [tim.mckinnon@acnnewswire.net](mailto:tim.mckinnon@acnnewswire.net) and  
13 [mckint@ecomm.net.au](mailto:mckint@ecomm.net.au). On September 28, 2007, Plaintiff sent the same demand letter  
14 via e-mail to [webmechanic@telstra.com](mailto:webmechanic@telstra.com). A true and correct copy of the demand letter is  
15 attached hereto as Exhibit A.

16       26. The letter was not returned to Plaintiff, nor did Plaintiff receive an error  
17 message about the non-deliverability of the emails sent to the  
18 [tim.mckinnon@acnnewswire.net](mailto:tim.mckinnon@acnnewswire.net), [mckint@ecomm.net.au](mailto:mckint@ecomm.net.au), and  
19 [webmechanic@telstra.com](mailto:webmechanic@telstra.com) e-mail addresses. To date, Plaintiff has received no  
20 response from Mckinnon to the demand letter, nor has it received a return receipt for the  
21 same.

22       27. In recent months, JCN has also attempted to reach Mckinnon informally via  
23 telephone and email. However, after the theft, Mckinnon ceased all contact with JCN.  
24 Upon information and belief, Mckinnon has recently been operating in a nomadic fashion,  
25 using a laptop and a P.O. Box to avoid identification and service.

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## CLAIM FOR RELIEF

Cybersquatting Under Section 43(d) of The Lanham Act. 15 USC §1125(d)(2)(A)

28. Plaintiff re-alleges and incorporates herein the above Paragraphs 1-27.

29. The actions as described above, including Mckinnon's continued use of the  
Defendant's Domains, constitute use of Plaintiff's ACN Mark and name in violation of  
Section 43(d) of the Lanham Act, 15 U.S.C. §1125(d)(2).

7 30. As a direct and proximate result of the actions, conduct, and practices of  
8 alleged above, including Mckinnon's continued use of the Disputed Domains in  
9 connection with its website, and Mckinnon's bad faith intent, Plaintiff has been damaged  
10 and will continue to be damaged.

31. Plaintiff has no adequate remedy at law

### PRAYER FOR REIFICATION

WHEREFORE, Plaintiff prays this Court enter judgment in its favor on the claims set forth above, and further prays an award to Plaintiff of:

1. A preliminary and permanent injunction and judgment ordering the transfer of the registration and control of the Disputed Domains to Plaintiff; and
2. Such further relief to which Plaintiff may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

Respectfully Submitted

DATED: October 1, 2007

KRONENBERGER BURGOYNE LLP

By

Karl S. Kronenberger  
Deepa Krishnan  
Attorneys for Plaintiff

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3 DEMAND FOR JURY TRIAL  
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7 Plaintiff hereby demands a trial of this action by jury.  
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10 Respectfully Submitted,  
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13 DATED: October 1, 2007  
14  
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16 KRONENBERGER BURGOYNE, LLP  
17  
18

19 By:   
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21 Karl S. Kronenberger  
22 Deepa Krishnan  
23 Attorneys for Plaintiff  
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